

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

KAREN ROBBINS and LEE ROBBINS,)
)
Plaintiff,)
)
vs.) Case No. 4:16-CV-1504 (CEJ)
)
LYNN J. WALLEY and THE HANNIBAL)
CLINIC, INC.,)
)
Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court on defendants' motion to dismiss for improper venue. [Doc. #6]. Plaintiffs have filed a response in opposition and the issues are fully briefed.

In January 2016, plaintiff Karen Robbins underwent a medical procedure to treat ovarian torsion. The procedure was performed by defendant Lynn J. Walley, at the Hannibal Clinic, Inc. [Doc. #20 at 1-2]. Plaintiff alleges that as a result of Walley's negligence she sustained septic shock, as well as acute respiratory failure, acute renal failure, and other injuries; consequently, she was hospitalized in an intensive care unit for more than 30 days. *Id.* at 2. She underwent multiple surgical procedures and suffered permanent and disabling injury, disfigurement, and pain. *Id.* She alleges that she has incurred costs of more than \$434,000 for medical care. *Id.* Plaintiff and her husband filed this action against Walley and the Hannibal Clinic in the Eastern Division of the Eastern District of Missouri.

Local Rule 2.07(b)(2) of the United States District Court for the Eastern District of Missouri states as follows:

All actions brought against multiple defendants all of whom reside in the same division *must* be brought in that division, or in the division where the claim for relief arose. If at least two of the defendants reside in different divisions, such action shall be filed in any division in which one or more of the defendants reside, or where the claim for relief arose.

E.D. Mo. L.R. 2.07(b)(2) (emphasis added).

Defendant Walley resides in and Hannibal Clinic is located in Marion County Missouri. Also, the claim that defendants were negligent is based on actions that took place in Marion County. [Doc. #6-1 at 1]. Marion County is located in the Court's Northern Division. See E.D. Mo. L.R. 2.07(A)(2); [Doc. #6-1]. Because the defendants reside in and the claim arose in the Northern Division, venue in the Eastern Division is improper.

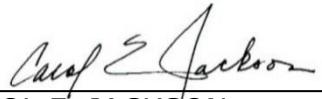
Even though venue is improper, the defendants' motion to dismiss will be denied. Instead, the Court will order that the case be transferred to the Northern Division. See 28 U.S.C. § 1406(a) (providing that "[t]he district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.").

Accordingly,

IT IS HEREBY ORDERED that defendants' request to file their motion without a memorandum in support pursuant to Local Rule 7-4.01(A) is **granted**.

IT IS FURTHER ORDERED that the Clerk of Court shall transfer this case to the Northern Division.

IT IS FURTHER ORDERED that defendants' motion to dismiss for improper venue [Doc. #6, #22] is **denied**.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 4th day of January, 2017.